

**From:** Patricia Rupe  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

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To: Renata B. Hesse  
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I believe that Microsoft is a dangerous monopoly and should be divided. They are ruthless in their pursuit of buying and destroying any competitor that gets in their way. I also feel that the exclusion of non-profit organizations from the sharing of source code and specifications by Microsoft is a serious mistake. Why should Microsoft be the one to define what constitutes a "viable business" and not the Justice Department. Eliminating companies like Linux and Apache, to name a couple, only diminish the quality of the products we as consumers have access to.

The Justice Department had Microsoft on the ropes and then backed down. It has been apparent for many years that Microsoft is a monopoly and something should have been done long before now about applying the antitrust laws to break them up.

Can you imagine the trouble the entire nation would be in if this monopoly is allowed to continue as it is currently structured? Computers have become a large part of everyone's lived and are in the majority of households and businesses in the United States and in parts of the world. We rely heavily on the operating system, internet, networking, security, etc. to keep up with both personal and business related information. Having one company basically controlling all aspects of this information and technology is extremely scary.

Microsoft has yet to adequately address security issues. Every time they release a security enhancement, they immediately follow it up with several fixes to the enhancement that bandaied the holes caused by their latest release. You could drive a semi-truck thru the holes in their security infrastructure.

Every release of every product from Microsoft is riddled with major and minor "bugs". I cannot fathom the number of people that Microsoft employs just to deal with fixing problems in each of their products. One would think that competition would force Microsoft to at least try to produce better quality products, but they are so large and powerful that any company that dares to produce a better quality product is taken over or driven out of business by Microsoft. So, in the end, everyone loses except Microsoft. I resent having to pay several hundred dollars for a product or product upgrade that is riddled with bugs. I cannot begin to count the number of hours, days, and in some cases, weeks that I and my husband have spent on our computers trying to recover data or wiping everything out and reloading the operating system and all the applications that we use because of bugs in Microsoft products. As long as they are allowed to remain a monopoly, I do not have any hope of this ever changing.

I am including some comments from Robert X. Cringely

(<http://www.pbs.org/cringely/pulpit/pulpit20011206.html>) on the subject of the Microsoft Antitrust suit that I wholeheartedly agree with. You have probably received a copy of these comments from Mr. Cringely and others, but in case you haven't, here they are.

The proposed Microsoft/DoJ settlement states that as part of the deal, there will be a three-member committee stationed at Microsoft to make sure the deal is enforced.

I think Steve Satchell should get the position. With a background in computer hardware and software that dates back to one of the very first nodes on the Arpanet 30 years ago, Steve Satchell knows the technology. He has worked for several big computer companies, and even designed and built his own operating systems. And from his hundreds of published computer product reviews, he knows the commercial side of the industry. He is glib and confident, too, which might come in handy while attempting to keep Microsoft honest.

Complaints about the proposed settlement, itself:

Those who followed the case closely will remember that one of Microsoft's chief claims during the trial was that times and the nature of business have changed, and that anti-trust enforcement ought to be different today than it was when the laws were first passed in the early part of the last century. This is a fast-moving industry based on intellectual, rather than industrial, capital, goes the argument. Sure, Microsoft is on top today, but that could change in a minute. This argument evidently didn't resonate with the court, though, since Microsoft was found guilty.

Well, Microsoft now is leaning this time on the same letter of the old law to not only get a better deal, but literally to disenfranchise many of the people and organizations who feel they have been damaged by Microsoft's actions. If this deal goes through as it is written, Microsoft will emerge from the case not just unscathed, but stronger than before.

Here is what I mean. The remedies in the Proposed Final Judgement specifically protect companies in business for profit. On the surface, that makes sense because Microsoft was found guilty of monopolistic activities against "competing" commercial software vendors like Netscape, and other commercial vendors like Compaq, for example. The Department of Justice is used to working in this kind of economic world, and has done a fair job of crafting a remedy that will rein in Microsoft without causing undue harm to the rest of the commercial portion of the industry. But Microsoft's greatest single threat on the operating system front comes from Linux -- a non-commercial product -- and it faces a growing threat on the applications front from Open Source and freeware applications.

The biggest competitor to Microsoft Internet Information Server is Apache, which comes from the Apache Foundation, a not-for-profit. Apache

practically rules the Net, along with Sendmail, and Perl, both of which also come from non-profits. Yet not-for-profit organizations have no rights at all under the proposed settlement. It is as though they don't even exist.

Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "... (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

So much for SAMBA and other Open Source projects that use Microsoft calls. The settlement gives Microsoft the right to effectively kill these products.

Section III(D) takes this disturbing trend even further. It deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware." In this section, Microsoft discloses to Independent Software Vendors (ISVs), Independent Hardware Vendors (IHVs), Internet Access Providers (IAPs), Internet Content Providers (ICPs), and Original Equipment Manufacturers (OEMs) the information needed to inter-operate with Windows at this level. Yet, when we look in the footnotes at the legal definitions for these outfits, we find the definitions specify commercial concerns only.

Also, under this deal, the government is shut out, too. NASA, the national laboratories, the military, the National Institute of Standards and Technology -- even the Department of Justice itself -- have no rights. It is a good thing Afghanistan is such a low-tech adversary and that B-52s don't run Windows.

The government buys commercial software and uses contractors who make profits. Open Source software is sold for profit by outfits like Red Hat. I think Microsoft probably saw this one coming months ago and have been falling all over themselves hoping to get it through. If this language gets through, MICROSOFT WILL FIND A WAY TO TAKE ADVANTAGE OF IT.

Department of Justice showed through the case little understanding of how the software business really functions. But they are also complying with the law which, as Microsoft argued, may not be quite in sync with the market realities of today. In the days of Roosevelt and Taft, when these laws were first being enforced, the idea that truly free products could become a major force in any industry -- well, it just would have seemed insane.

Thank you for the opportunity to submit comments related to this extremely

serious and sensitive issue.

Patricia Rupe